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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/971,954	10/04/2001	Robert D. Glaser	109905-136622	5632

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EXAMINER
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LIN, WEN TAI

ART UNIT	PAPER NUMBER
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2154

DATE MAILED: 10/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/971,954	GLASER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Wen-Tai Lin	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 03 September 2004.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 45-71 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 45-71 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. Claims 45-71 are presented for examination

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 45-71 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for seeking a predefined segment location within a file, does not reasonably provide enablement for seeking an arbitrary location within a file. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims.

Specifically, claims 45-71 are newly added claims, wherein claims 45, 52, 55, 63, 67 and 69 added a feature of seeking an arbitrary location within a file without indicating the how each consecutive locations are defined. While Applicant only teaches partitioning a file into smaller divisions and seek to the various division through proper indexing, such teaching could only lead to file locations at predetermined points, but not any arbitrary location. For purpose of prior art rejection, the term "arbitrary location within a file" is being construed as any predetermined partition points within the file.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 45-71 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. As per claims 45, 52, 55, 63, 67 and 69, the term "file" in claims clearly defined in the specification. In general, a file is named a collection of data having associated attributes. However, in a broadest sense, a file can be a database, which is keyed for randomly accessing portions of its records. A file could also be viewed as an entire reel of recorded tape, wherein multiple data segments can be sequentially retrieved. It appears that applicant equated the word "file" to "clip", which is more closely related to the claimed subject matter. For purpose of prior art rejection, the word "file" is being construed as "clip", which in audio recordings a song or music is regarded as a clip.

7. As per claims 58 and 64, it is not clear what meant by "the message queue is clearly after the server receives the seek request". First, the specification teaches about seek messages, request messages, etc., but contains no teaching about "seek request messages". Secondly, it is not understood whether the action of clearing a message queue is meant to clearing the request message that have been serviced or flushing everything contained in the queue?

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8. As per claims 47 and 67, it appears that the clause "the length of time is greater than a length of time to buffer a file before rendering the file in the client electronic device" in claim 67 is in conflict with "the length of time is shorter than a length of time used to buffer the file at the client electronic device" in claim 47.

9. As to claims 56 and 61, it is found that these two claims are identical.

10. As to claims 48 and 63-68, the following terms lack antecedent basis:

In claim 48, "the server".

In claims 63 and 67, "the desired location".

### ***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

12. A person shall be entitled to a patent unless –

a. (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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13. Claims 45-57, 59-61, 63 and 65-71 are rejected under 35 U.S.C. 102(e) as being anticipated by Moskowitz et al.[U.S. Pat. No. 5629732].

14. As to claim 45, Moskowitz teaches the invention as claimed including: a method of seeking to a location within a file [col.5, lines 63-65; i.e., each movie is contained in a file] having a beginning and an end, the method comprising:

storing at least a portion of the file on a remote computing device [2a –2f, Fig.1; col.2, lines 24-37];

receiving from a client electronic device a signal indicating a seek request from a user to seek to an arbitrary location within the file [col.2, lines 37-43];

determining the location within the file based upon the seek request wherein the location is not limited to the beginning of the file [Fig.13; col.17, lines 3-13]; and

transmitting from the remote computing device to the client electronic device, the file starting from the location.

15. As to claim 46, Moskowitz further teaches that the seek request comprises data indicating a length of time to advance or rewind into the file [e.g., col.5, lines 14-23].

16. As to claim 47, Moskowitz further teaches that the length of time is shorter than a length of time used to buffer the file at the client electronic device [note that this statement is inherently true of Moskowitz's system because a user can not forward or

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rewind a file with a length (in term of play time elapse) longer than the length of playing the entire file].

17. As to claim 48, Moskowitz further teaches that the length of time is longer than a length of time used to buffer the file at the server [note that this statement is inherently true of Moskowitz's system because in the high-demand scenario the entire movie file is pre-stored in a memory (col.5, lines 12-15), such that the length of time used to buffer the file (after the movie is being played) is zero].

18. As to claim 49, Moskowitz further teaches that the method further comprises clearing at least one buffer after the seek request [col.8, lines 23-34; i.e., in the ping-pong buffering mechanism, the data in a buffer has to be totally outputted (i.e., cleared) before it is filled again].

19. As to claim 50, Moskowitz further teaches that the method further comprises filling at least one buffer with at least a portion of the file as a result of the seek request [col.8, lines 23-34].

20. As to claim 51, Moskowitz further teaches that the file includes audio data to be streamed to the user [col.19, lines 62-64].

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21. As to claims 52-57, 59-61, 63 and 65-71, since the features of these claims can also be found in claims 45-46 and 50-51, they are rejected for the same reasons set forth in the rejection of claims 45-46 and 50-51 above.

***Claim Rejections - 35 USC § 103***

22. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

23. Claims 58, 62 and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moskowitz et al.(hereafter "Moskowitz")[U.S. Pat. No. 5629732], as applied to claims 45-57, 59-61, 63 and 65-71 above.

24. As to claim 58, Moskowitz does not specifically teach that the server further comprises a message queue wherein the message queue is cleared after the server receives the seek request.

However, since Moskowitz's server is responsible for receiving and responding to requests sent from a plurality of terminal users, it is obvious to one of ordinary skill in the art that Moskowitz's server could have used a message queue to temporarily hold the requests and clear the queued items that have been serviced because using a



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queue for unexpected events further simplifies the management of the service request from all users.

25. As to claim 62, Moskowitz teaches that the file is transmitted using network protocols, including ATM and information superhighway [i.e., Internet] (see col.4, lines 1-7). Moskowitz does not specifically teach using TCP/IP. However, TCP/IP is a well-known network protocol suitable for a wide variety of information transfers at the network and transport layers. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use TCP/IP in Moskowitz's system because TCP/IP is a widely supported protocol.

26. As to claim 64, since the features of this claim can also be found in claims 55, 58 and 63, it is rejected for the same reasons set forth in the rejection of claims 55, 58 and 63 above.

27. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Lewis et al. [U.S. Pat. No. 4224644];

Eggers et al. [U.S. Pat. No. 4920432];

Abecassis [U.S. Pat. No. 6714723]; and

Allen [U.S. Pat. No. 5794217].

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**28.** A shortened statutory period for response to this action is set to expire 3 (three) months and 0 days from the mail date of this letter. Failure to respond within the period for response will result in ABANDONMENT of the application (see 35 U.S.C. 133, M.P.E.P. 710.02, 710.02(b)).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wen-Tai Lin whose telephone number is (571)272-3969. The examiner can normally be reached on Monday-Friday (8:00-5:00) .

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571)272-3964. The fax phone numbers for the organization where this application or proceeding is assigned are as follows:


(703)872-9306 for official communications; and

(703)746-5516 for status inquires draft communication.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

Wen-Tai Lin

October 21, 2004

  
10/21/04